

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

IN RE:
EDDIE L TORRENCE, JR.
Debtor(s),

CASE No: 11-35116-DOT
Chapter 13

SELECT PORTFOLIO SERVICING, INC. AS
SERVICING AGENT FOR DLJ MORTGAGE
CAPITAL, INC.

Movant,

v.

EDDIE L. TORRENCE, JR.,
ROBERT E. HYMAN, Trustee,
Respondents.

MOTION FOR RELIEF FROM STAY

NOTICE TO DEBTOR(S): Failure to file a written response to this motion with the Clerk of the United States Bankruptcy Court and to send Movant a copy within 14 days from date of certificate of service may result in entry of a default judgment.

COMES NOW your Movant, Select Portfolio Servicing, Inc., as Servicing Agent for DLJ Mortgage Capital, Inc., by counsel, and files this Motion for Relief from Stay to terminate, annul, modify or condition the automatic stay pursuant to 11 U.S.C. 362(d), and in support thereof states the following:

1. This Court has proper jurisdiction over the matters herein alleged pursuant to 28 U.S.C. §1334. This matter constitutes a core proceeding within the meaning of 28 U.S.C. §157 and a contested matter under Rules of Bankruptcy procedure 4001 and 9014.
2. On August 8, 2011, debtor filed a petition under Chapter 13 of the United States Bankruptcy Code.
3. Movant is a secured creditor of the Debtor by virtue of the fact that it holds or

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services a Deed of Trust Note dated February 25, 2009 in the original principal amount of \$186,049.00

4. Said Note is secured by Deed of Trust on property owned by the debtors located at 12001 Old Buckingham Road, Midlothian, VA 23113, more specifically described as:

ALL that certain lot, piece or parcel of land; with all improvements thereon and appurtenances thereto belonging, lying and being in the County of Chesterfield, Virginia, and shown and designated as Lot 6, Block A, Section C-2, on Subdivision Plat of Olde Coach Village, recorded in the Clerk's Office, Circuit Court of Chesterfield County; Virginia; in Plat Book 22, pages 22 and 23; to which plat reference is hereby made for a more particular description of the property.

5. Debtor has failed to make post-petition payments on the note and as of the date of filing is due for the October 1, 2012 post-petition payment and all payments thereafter at a rate of \$1,309.69 per month plus late charges of \$39.95 per month plus the costs and expenses of the current proceeding.

6. There is no equity in the aforesaid property for the benefit of the Debtor or Debtor's estate when costs of sale and tax consequences are included, to-wit:

- a. The tax assessed value of the property is \$161,700.00;
- b. The payoff for Movant's Note is approximately \$181,758.39, excluding the costs of the current proceeding.

7. The arrearages aforementioned are increasing on a daily basis, to the detriment of Movant's interests.

8. The failure to make payments is a material default, and constitutes cause for relief from stay.

9. Movant has not been offered adequate protection for its interests, nor is Debtor presently able to provide adequate protection to the Movant.

10. The aforesaid property is not necessary for an effective reorganization.

11. Movant is being injured by its inability to proceed against the property securing the indebtedness due to the automatic stay provided for in 11 U.S.C. §362.

WHEREFORE, these premises considered, Movant moves this Court to grant it full relief from the automatic stay provisions of 11 U.S.C. §362, or, if full relief cannot be had, to grant such other relief as may seem proper to the Court.

Select Portfolio Servicing, Inc. as Servicing
Agent for DLJ Mortgage Capital, Inc.
By Counsel

MORRIS | HARDWICK | SCHNEIDER, PLLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing Motion was transmitted to all parties listed on the ECF system and mailed first-class, postage prepaid this 23rd day of July, 2013 to:

Eddie L Torrence
12001 Old Buckingham Road
Midlothian, VA 23113

Robert E. Hyman, Trustee
PO Box 1780
Richmond, VA 23218-1780
Chapter 13 Trustee

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Richmond, VA 23112
Counsel for Debtor

/s/ Angela N. Watson
Angela N. Watson, Esq.